

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re:)	MDL No. 1456
)	Civil Action No. 01-12257-PBS
PHARMACEUTICAL INDUSTRY)	Subcategory No. 06-11337
AVERAGE WHOLESALE PRICE)	
LITIGATION)	Hon. Patti B. Saris
)	
)	
)	
THIS DOCUMENT RELATES TO:)	
)	
<i>United States ex rel Ven-A-Care of the</i>)	
<i>Florida Keys, Inc. v. Schering Corporation,</i>)	
<i>Schering-Plough Corporation and</i>)	
<i>Warrick Pharmaceuticals Corporation</i>)	
Civil Action No. 09-CV-10547)	
)	
<i>United States ex rel Ven-A-Care of the</i>)	
<i>Florida Keys, Inc. v. Schering Corporation,</i>)	
<i>Schering-Plough Corporation and</i>)	
<i>Warrick Pharmaceuticals Corporation</i>)	
Civil Action No. 00-10698)	

**CONSENT OF THE UNITED STATES OF AMERICA TO THE SETTLEMENT
BETWEEN VEN-A-CARE AND SCHERING-PLOUGH CORPORATION, SCHERING
CORPORATION, AND WARRICK PHARMACEUTICALS CORPORATION AND THE
DISMISSAL WITH PREJUDICE OF CLAIMS ASSERTED BY VEN-A-CARE
AGAINST SCHERING-PLOUGH CORPORATION, SCHERING CORPORATION,
AND WARRICK PHARMACEUTICALS CORPORATION**

Pursuant to 31 U.S.C. § 3730(b)(1), the United States hereby consents to: (i) the settlement between Relator Ven-A-Care of the Florida Keys, Inc. (the “Relator”), and Schering-Plough Corporation, Schering Corporation, and Warrick Pharmaceuticals Corporation (collectively, “Schering/Warrick”); (ii) the dismissal with prejudice of the above-captioned actions; and (iii) the entry of the proposed Order of Dismissal with Prejudice in the form attached to the Parties’ Settlement Agreement and Release as Exhibit C. The United States consents to the settlement and the dismissal with prejudice of the above-captioned matters for the following reasons: (1) As a part of a private class action lawsuit in MDL No. 1456 (the “MDL Class

Action Case”) against *intra alia* Schering/Warrick, the Court ruled that Schering’s reported prices for Intron-A, Proventil, and Temodar did not give rise to liability under Chapter 93A of the Massachusetts Consumer Protection Act; and Schering has provided to the United States a drug pricing analysis similar to the one presented to the Court in the MDL Class Action Case for its Schering brand drugs (which analysis is attached to the Parties’ Settlement Agreement and Release as Exhibit A); and, based in part on that pricing analysis, the United States has declined to intervene in this case or pursue a damages claim against Schering/Warrick on the basis of Schering’s price reporting for its brand drugs. (2) With respect to Warrick’s generic drugs, the United States has concluded that the portion of the Settlement Amount that it will receive in connection with the settlement is fair, adequate, and reasonable as to the United States under all the circumstances.

Respectfully submitted,

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/s/ Andy J. Mao
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